

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 V.)
)
)
ALBERTO TAPIA)

CRIMINAL NO. 04-10318-RWZ

STATUS REPORT AND MOTION FOR ORDER OF EXCLUDABLE DELAY

As the parties and Pretrial Services reported to the Court on January 14, 2005, the whereabouts of the defendant, Alberto Tapia are unknown. The defendant has not complied with the condition of his release that he report to Pretrial Services. Nor has the government been able to locate the defendant, despite diligent efforts.

Any period of delay resulting from the absence of the defendant is excludable for purposes of the Speedy Trial Act by operation of 18 U.S.C. § 3161(h)(3)(A). “[A] defendant . . . shall be considered absent when his whereabouts are unknown and, in addition, he is attempting to avoid apprehension or prosecution or his whereabouts cannot be determined by due diligence.” 18 U.S.C. § 3161(h)(3)(B). Because the defendant’s whereabouts are unknown and cannot be determined by due diligence and because the defendant is attempting to avoid prosecution by his refusal to make his whereabouts known to Pretrial Services, the Court should exclude from the period within which trial must commence under the Speedy Trial Act the time from March 3, 2005 until such time as the defendant is no longer absent.

Respectfully submitted,
MICHAEL J. SULLIVAN
United States Attorney

By: /s/ John A. Capin

JOHN A. CAPIN
Assistant U.S. Attorney